



**A = Approved, A1 = Approved First Reading, A2 = Approved Second Reading, D = Deferred,
NA = No Action, PH = Authorized Public Hearing, AD = Approval Denied**

ACTION AGENDA

Hickory City Council
76 North Center Street

January 4, 2022
7:00 p.m.

- I. Call to Order
- II. Invocation by Reverend David Roberts, Morning Star First Baptist Church
- III. Pledge of Allegiance
- IV. Special Presentations
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
- A** A. Regular Meeting of December 21, 2021. **(Exhibit VI.A.)**
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.
- A2** A. Budget Revision Number 10. **(First Reading Vote: Unanimous)**
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.
- A** A. Approval of Change Order One with SEPI Construction Engineering and Inspection in an Amount not to Exceed \$193,825.64. **(Exhibit VIII.A.)**

Staff requests Council's approval of change order one with SEPI Construction Engineering and Inspection for additional professional services related to the City Walk Project in an amount not to exceed \$193,825.64. The City Walk project is partially funded by United States Department of Transportation (USDOT) funding that is passed down through North Carolina Department of Transportation (NCDOT). The funding for this project is appointed to predominately 80 percent NCDOT and 20 percent City of Hickory respectively. NCDOT requires that recipients hire a separate engineering firm to perform construction, engineering, and inspection services from the design firm for oversight, materials testing and record keeping. This practice is intended to provide unbiased oversight on all NCDOT projects. The change order is due to the extended length of the project due to unforeseen design issues that resulted in project time being extended and extended workload to SEPI Engineering and Construction Services. Fees are eligible for reimbursement with NCDOT funds at the same ratio of 80 percent NCDOT and 20 percent City of Hickory. Staff recommends Council's approval of change order one with SEPI Engineering and Construction in an amount not to exceed \$193,825.64
- A** B. Acceptance of the Adapting Technology Grant Funds in the Amount of \$40,000 from the State Library of North Carolina. **(Exhibit VIII.B.)**

Staff requests acceptance of \$40,000 from the State Library of North Carolina through the Adapting Technology grant program. Hickory Public Library offers study rooms and community meeting rooms for the public at both library locations. During the COVID-19 pandemic, the need to host virtual meetings and hybrid programs has grown, for both library patrons and for events and classes offered by the library. To offer high quality virtual programs and meetings the Library needs improved videoconferencing technology in each of the meeting & study spaces. The State Library of North Carolina is providing grant funds for technology to improve library operations, especially in support of education, health, and workforce development needs; and/or to respond to the pandemic and to implement public health protocols. The maximum grant amount is \$40,000. The \$40,000 grant will allow library staff to purchase equipment needed to accommodate virtual and hybrid meetings for education, health, and workforce development. No matching funds are required. Staff recommends acceptance of the Adapting Technology grant funds.

- PH/A C.** Certificate of Sufficiency and Preliminary Resolution Relative to Street Improvements for Curb and Gutter along a Portion of 17th Street NE, Petition No. 22-01. **(Authorize Public Hearing for February 1, 2022, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building). (Exhibit VIII.C.)**

- A D.** Approval of a Right of Way Settlement Agreement with North Carolina Department of Transportation for Property Located at 1241 Highway 321 NW in the Amount of \$96,650. **(Exhibit VIII.D.)**

Staff requests City Council's approval of a right of way settlement with North Carolina Department of Transportation (NCDOT) for property located at 1241 Highway 321 NW. As part of the US 321 widening project, the NCDOT is purchasing right of way and utility easements on several City properties. This agreement is the fourth City-owned property to get to the settlement stage. The property is located at 1241 Highway 321 NW and will house the parking area and approach to the pedestrian bridge that will be constructed as part of the Aviation Walk project. The parcel is further identified as PIN 279312765274. A portion of the property will be taken for drainage, utility, and temporary construction easements. No right of way will be purchased from this parcel. The value of the 0.073-acre temporary construction easement is estimated at \$9,025. The estimated value of the 0.012-acre permanent drainage easement and 0.023-acre utility easement is \$7,650. Based on the overall appraised value of the land, the additional reduction in value to the remainder of the site after the road widening project is estimated at \$79,975. The total difference in the current value of the entire property and the value after the purchase of the easements construction of the road project is \$96,650. The property will be used as a parking area, open space, and house the approach area for the bridge over US 321. The sale of these easements should not have a negative effect on the Aviation Walk project. Staff recommends the approval of the right of way agreement with NC DOT in the amount of \$96,650.

- A E.** Approval of a Professional Services Agreement with Civil & Environmental Consultants, Inc. in the Amount of \$99,500 for Trivium East Due Diligence Services. **(Exhibit VIII.E.)**

Staff requests Council's approval of a Professional Services Agreement proposal with Civil & Environmental Consultants, Inc., in the amount of \$99,500 for Trivium East due diligence services. Trivium Corporate Center is the business park recognized in the Bond projects to receive money from bond proceeds for development. The City, County and EDC have worked on development of the project to a condition that is receptive to marketing. As the original Trivium site has been successful and only three lots remain, the partnership has purchased additional properties to expand the success of the business park. This phase of the project will consist of Master Planning Services to help identify the potential building layouts of the site, configurations, renderings, and marketability. The ecological study, mapping, jurisdictional water determination, protected species habitat and applicable report will also be included in the due diligence. Surveying, asbestos demolition and well abandonment will also be included in this agreement. Staff recommends Council's approval of a Professional Services Agreement proposal with Civil & Environmental Consultants, Inc., in the amount of \$99,500 for Trivium East due diligence services.

- A** **F.** Approval of an Additional Service Agreement with McGill and Associates in the Lump Sum Amount of \$6,500 and Cost Plus for Tasks 2 through 4. **(Exhibit VIII.F.)**

Staff requests Council's approval of an additional Service Agreement with McGill and Associates for the design and construction administration of the McLin and Lyle Creek Wastewater Outfall Project in the amount of \$6,500 and cost plus for tasks 2 through 4. In 2011 the City of Hickory in partnership with Catawba County, the City of Conover, and the City of Claremont made a joint venture with Davis and Floyd Engineering for a basin wide analysis of this area. During the study, five different scenarios were developed, and a consensus made upon the group for the future routes to be pursued. In 2015 McGill Associates performed the initial pump station design and permitting at the Hickory-Catawba Wastewater Treatment Facility (WWTF). The City of Hickory and the City of Claremont have been discussing and negotiating this agreement since the study and PER was completed by Davis and Floyd. During the initial design, additional permitting constraints have been discovered. FERC assistance, land appraisal and platting, along with Lake Services crossing permits were not originally part of the project. This additional services agreement is meant to continue the work on the project in a cost effective and expedient manner. Staff recommends approval of an additional Service Agreement with McGill and Associates for the design and construction administration of the McLin and Lyle Creek Wastewater Outfall Project in the amount of \$6,500 and cost plus for tasks 2 through 4.

- A** **G.** Approval of the Resolution Regarding the Condemnation of Properties for Temporary and Permanent Easements and Rights of Way for Construction of a Multi-Use Path System for the OLLE Art Walk. **(Exhibit VIII.G.)**

Staff requests Council's consideration of a Resolution Regarding Condemnation of Properties for Temporary and Permanent Easements and Right-of-Ways for Construction of a Multi-use Path System (OLLE Art Walk). The OLLE Art Walk is part of the larger Hickory Trail multiuse path system and bond program that seeks to increase quality of life for residents and spur economic revitalization by providing pedestrian and bicycle connectivity throughout the City. The OLLE Art Walk will create a connection between City Walk, via 9th Street NW and Old Lenoir Road, and Aviation Walk and the Riverwalk. Per North Carolina General Statutes Chapter 40A the City of Hickory has the power of eminent domain to acquire any property to improve streets, sidewalks, and establish or improve recreational facilities. The City has found it is in the public interest to acquire certain easements and rights-of-way for the construction of the mile, 10-foot-wide multi-use pathway for pedestrian and bicycle connectivity from the City Walk to the Riverwalk via 9th Street NW and Old Lenoir Road. The proposed resolution authorizes staff and legal counsel to institute the condemnation proceedings on these properties. Staff recommends Council's approval of the Resolution Regarding Condemnation of Properties for Temporary and Permanent Easements and Right-of-Ways for Construction of a Multi-use Path System for the OLLE Art Walk.

- A1** **H.** Budget Revision Number 11. **(Exhibit VIII.H.)**

1. *To recognize and appropriate \$40,000 from the State Library of North Carolina Adapting Technology grant program towards library supplies. No matching funds are required.*
2. *To appropriate \$6,500 from Water and Sewer Fund Balance towards McLin and Lyle Creek Wastewater Outfall Project for an Additional Service Agreement with McGill and Associates.*
3. *To appropriate \$49,750 of General Fund Balance to be paid to Civil & Environmental Consultants, Inc. as part of a Professional Services Agreement for Trivium East Due Diligence Services. Matching funds of \$49,750 will come from Catawba County for a total of \$99,500.*

4. To appropriate \$155,061 in Federal Grant funds administered by NCDOT and \$38,765 from General Fund Balance towards the City Walk Project for the cost of Change Order #1 with SEPI Engineering for a total of \$193,826.

IX. Items Removed from Consent Agenda

X. Informational Item

XI. New Business:

A. Public Hearings

- A1**
1. Continuation of the Public Hearing for Consideration of Rezoning Petition Number 21-08 for Property Located at 3320, 3326, 3330, and 3342 9th Avenue Drive NW, from R-1 Residential to Neighborhood Center Commercial (NC) – Presentation by Planning Director Brian Frazier. **(Exhibit XI.A.1.)**

Winkler's Grove Baptist Church has submitted a petition requesting the rezoning of its property located at 3320, 3326, 3330 and 3342 9th Avenue Drive NW, from R-1 Residential to Neighborhood Center Commercial (NC). The properties under consideration for rezoning are occupied by a church, auxiliary buildings, and a parking lot. The rezoning request is intended to establish zoning that would provide greater flexibility in the future development of the church campus. The subject properties are zoned Low Density Residential (R-1) and are +/- 13.57 acres in total size. The current zoning is primarily intended for lower intensity residential uses, at a maximum density of two dwelling units per acre. While, residential is the primary purpose of the district, other uses including churches are also permissible. Should the properties be rezoned to Neighborhood Center Commercial (NC), residential uses would still be permissible, although at higher intensities and forms. The major difference would be the potential to establish retail and office uses in addition to residential. Residential intensities within NC districts are permissible at a rate of thirty dwelling units per acre, and non-residential development is permissible at a floor area ratio (FAR) of 2:1. The Hickory Regional Planning Commission conducted a public hearing on December 1, 2021, to consider the petition. During the public hearing, the property owner spoke in favor of the petition, while no one spoke in opposition. Upon closing the public hearing, the Hickory Regional Planning Commission voted 6 to 3 to affirm the petition's inconsistency with the Hickory by Choice 2030 Comprehensive Plan, and recommended City Council's disapproval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 10, 2021, and December 17, 2021.

Public Hearing was opened during City Council's December 21, 2021, meeting and continued until January 4, 2022.

- A**
2. Consideration of a Voluntary Non-Contiguous Annexation of 55.49 Acres of Property Located on Spencer Road, between 30th Street Court NE and 31st Street Place NE, PIN 3723-15-63-5314 – Presentation by Planning Director Brian Frazier. **(Exhibit XI.A.2.)**

The Margaret H. Glaze, Josephine B. Hambrick Revocable Trust, and the Robert T. Hambrick Trust have petitioned for the voluntary non-contiguous annexation of 55.49 acres of property located on Spencer Road between 30th Street Court NE and 31st Street Place NE. The subject property is currently located within both Hickory's extra-territorial jurisdiction (ETJ) and Catawba County's jurisdiction. The annexation is being requested to gain access to City services. The subject property is currently zoned R-1 Residential by Hickory and R-20 Residential by Catawba County, and totals 55.49 acres in total size. The current county R-1 and R-20 zoning districts both permit one and two-family residential uses at a density of two

dwelling units per acre. The subject property is currently vacant; however, the owners' intention is to develop the property for the construction of detached single-family residences. While preliminary development plans have not been provided, the property could theoretically yield +/-110 residential homes. The current tax value of the property is \$280,700. If annexed with its present value, the property would generate additional tax revenues of \$1,761. No indication has been given as to the potential value of any residential units. Upon analysis, staff has determined the petition meets the statutory requirements for voluntary contiguous annexation, and adequate public services are available. Staff finds the petition to be in conformity with applicable statutes and recommends approval of the petition.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 24, 2021.

- D** 3. Consideration of Proposed Amendments to Chapter 21, Sections 21-8 and 21-9 of the Hickory City Code of Ordinance – Presentation by Deputy City Attorney Arnita Dula. **(Exhibit XI.A.3.)**

Staff requests Council's consideration of amendments to Chapter 21 Miscellaneous Offenses, Section 21-8.- Reserved and Section 21-9. - Imitating police whistle, fire siren, etc. of the Hickory Code of Ordinances. On September 10, 2021, Governor Cooper signed into law House Bill 890 ABC Omnibus Legislation (S.L. 2021-150). A provision in the bill amended G.S. 18B-904 by adding subsection (h) which allows permittees holding ABC permits for on-premises consumption of alcohol to extend their premises for the outdoor possession and consumption of alcohol. In order for permittees to extend their premises now, a city must adopt an ordinance authorizing the extension. Permittees must also meet several other requirements set forth in the subsection. There are two proposed amendments to Chapter 21. The first amendment is the addition of a substantive ordinance which will meet the statutory requirements to authorize permittees with on-premises ABC permits to extend their premises for the outdoor possession and consumption of alcohol. The new ordinance will be numbered as Section 21-9. – Extension of license premises. The second proposed amendment involves formatting changes. Current section 21-9. – Imitating police whistle, fire siren, etc. will be renumbered as Section 21-8. New Section 21-9 will be the substantive ordinance referenced in the preceding paragraph. The formatting changes will place the three sections related to alcohol together and will be outlines as follows: Sec. 21-8. – Imitating police whistle, fire siren, etc.; Sec. 21-9. – Extension of license premises.; Sec. 21-10. - Alcoholic beverages – consumption on city property; social districts.; and Sec. 21-11. – Malt beverages, wine, Hours of sale of beer or wine. Staff recommends Council consider and adopt amendments to Chapter 21 Miscellaneous Offenses, Sections 21-8 and 21-9 of the Code.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 24, 2021.

- A** 4. Consideration of a Resolution Directing that the Street Improvement Project be Undertaken for Property Located at 621 and 623 8th Street Drive NW, Hickory, Petition Number 21-01. – Presentation by Public Services Director Steve Miller. **(Exhibit XI.A.4.)**

The City Clerk received a petition from the owner of property along 8th Street Drive NW to install curb and gutter along a portion of their street as per Section 29-2 of the Hickory Code of Ordinances. The petitioner(s) represent a majority, greater than 50 percent of the property owner(s), as well as a majority greater than 50 percent of the property footage of the property frontage requested in the petition and therefore qualifies as a valid petition. On December 7, 2021, City Council approved the Resolution to hold a public hearing. The signature(s) on the petition represent 100 percent of the property owner(s) affected, who in turn represent 100

percent of the property footage affected. The City Clerk validated these numbers on the Certificate of Sufficiency. Staff recommends Council's approval of a Resolution directing that street improvement project be undertaken for petition number 21-01 that is requesting the City to construct curb and gutter along a portion of the 600 Block of 8th Street Drive NW.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on December 10, 2021.

B. Departmental Reports

A 1. Appointments to Boards and Commissions

CITIZENS ADVISORY COMMITTEE

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Small Cities Project Area

VACANT

COMMUNITY APPEARANCE COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (Outside City but within HRP) (Council Appoints)

VACANT

COMMUNITY RELATIONS COUNCIL

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

Other Minority (Council Appoints)

VACANT

Differently Abled and is African American or Other Minority (Council Appoints)

VACANT

Differently Abled (Council Appoints)

Beth Whicker

(Not Eligible for Reappointment)

HISTORIC PRESERVATION COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

At-Large (2)(Council Appoints)

Mary Moorer

(Eligible for Reappointment/Does Not Wish to Serve Again)

LIBRARY ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 1 (Wood Appoints)

VACANT

(Dianne Straley no longer Eligible for Ward 1 due to Redistricting)

Ward 3 (Seaver Appoints)

VACANT

(Beth Schauble Resigned 11-10-2021)

Alderman Wood Nominated Lanie Wood as Ward 1 Representative for the Library Advisory Board.

PUBLIC ART COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 4 (D. Williams Appoints)

VACANT

At-Large (Mayor Appoints)

Beth Bowman

(Not Eligible for Reappointment)

At-Large (Mayor Appoints) (Harold Humphrey Resigned 11-4-2021)

VACANT

RECREATION AND SPORTS TOURISM COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 2 (C. Williams Appoints) (Unexpired term of Kenneth Sigler)

VACANT

Alderwoman Williams Nominated Michael McNally as Ward 2 Representative for the Recreation and Sports Tourism Commission.

YOUTH COUNCIL

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

Youth Council Applicant Review Committee Recommends the Following Appointments:

Fred T. Foard
Homeschool

VACANT
VACANT

C. Presentation of Petitions and Requests

- NA** 1. The Hickory Fire Fighters Association requested to be put on City Council's January 4th agenda to make a presentation on, and to discuss "Firefighter Retention and Compensation; Community Safety Expectations." City Manager Warren Wood advised them that issues related to compensation have budgetary impacts so the appropriate course of action would be to follow the annual non-profit request process which is standard procedure for all non-profits in our community

XII. Matters Not on Agenda (requires majority vote of Council to consider)

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

XIV. Adjournment

***Hickory City Code Section 2-56. Public Address to Council:**

"When conducting public hearings, considering ordinances, and otherwise considering matters wherein the public has a right to be heard, when it appears that there are persons present desiring to be heard, the Mayor shall require those opposing and favoring the proposed action to identify themselves. Each side of the matter shall be given equal time. Those opposing the proposed action shall be allowed 15 minutes for presentation, followed by 15 minutes for those favoring the action, with the opponents then to have five minutes for rebuttal and the proponents to then have five minutes for surrebuttal. Those persons on either side shall have the right to divide their allotted time among them as they may choose. The Council, by majority vote, may extend the time for each side equally. On matters in which the person desiring to address the Council does not have a legal right to speak, the Council shall determine whether it will hear the person. The refusal to hear a person desiring to speak may be based upon grounds that the subject matter is confidential, that its public discussion would be illegal, that it is a matter not within the jurisdiction of the Council or for any other cause deemed sufficient by the Council. Any person allowed to speak who shall depart from the subject under discussion or who shall make personal, impertinent, or slanderous remarks, or who shall become boisterous while addressing the Council shall be declared out of order by the Mayor, or by vote of the Council, and barred from speaking further before the Council unless permission to continue shall be granted by a majority vote of the Council, under such restrictions as the Council may provide."

**The City of Hickory holds all public meetings in accessible rooms.
Special requests for accommodation should be submitted by individuals
with disabilities at least 48 hours before the scheduled meeting.
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